

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

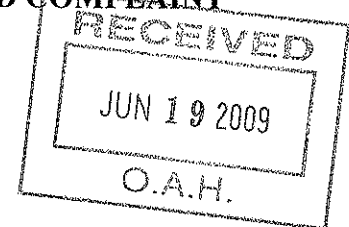
2 In the Matter of the Revocation of the Collection
3 Agency License of:

No. 09F-BD067-BNK

4 **OXFORD COLLECTION AGENCY, INC.**
5 **AND CHARLES HARRIS, VICE**
6 **PRESIDENT**

7 420 Lawrence Bell Drive, Suite 2
8 Williamsville, NY 14221

**AMENDED NOTICE OF HEARING TO
REVOKE AND COMPLAINT**



Respondents.

8 PLEASE TAKE NOTICE that, under Arizona Revised Statutes ("A.R.S.") §§ 6-137, 6-138,
9 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative
10 Hearings, an independent agency, and is scheduled for July 22, 2009, at 9:00 a.m., at the Office of
11 Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the
12 "Hearing").

13 The purpose of the Hearing is to determine if grounds exist for: (1) the issuance of an order
14 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
15 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
16 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
17 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
18 suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; (4) an order to pay
19 restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-
20 131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement
21 of statutes and rules regulating collection agencies pursuant to A.R.S. §§ 6-123 and 6-131.

22 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
23 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
24 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
25 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
26 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office

1 of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed
2 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
3 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
4 Superintendent retains his authority to enter orders granting a stay, orders on motions for rehearing,
5 final decisions under A.R.S. § 41-1092.08 or other order or process which the Administrative Law
6 Judge is specifically prohibited from entering.

7 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
8 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
9 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
10 Administrative Hearings.

11 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
12 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
13 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
14 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
15 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-
16 1092.07(B), any person may appear on his or her own behalf or by counsel.

17 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
18 made by a court reporter. The transcription of the hearing proceedings by the court reporter shall be
19 the official record for purposes of the Administrative Law Judge's Recommended Decision and the
20 Superintendent's Final Decision and Order. Any party that requests a transcript of the proceedings
21 shall pay the cost of the transcript for the court reporter or other transcriber.

22 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
23 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

24 **NOTICE OF APPLICABLE RULES**

25 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
26 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting

1 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
2 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
3 governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
4 R2-19-122. A copy of these rules is enclosed.

5 Pursuant to A.A.C. R20-4-1209, Respondents shall file a written answer **within twenty (20)**
6 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondents'
7 position or defense and shall specifically admit or deny each of the assertions contained in this
8 Notice of Hearing. If the answering Respondents are without or are unable to reasonably obtain
9 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondents shall
10 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted.
11 When Respondents intend to deny only a part or a qualification of an assertion, or to qualify an
12 assertion, Respondents shall expressly admit so much of it as is true and shall deny the remainder.
13 Any defense not raised in the answer is deemed waived.

14 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondents will be**
15 **deemed in default** and the Superintendent may deem the allegations in this Notice of Hearing as
16 true and admitted and the Superintendent may take whatever action is appropriate, including
17 suspension, revocation, denial of Respondents' license or affirming an order to Cease and Desist and
18 imposition of a civil penalty or restitution to any injured party.

19 Respondents' answer shall be mailed or delivered to the Arizona Department of Financial
20 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
21 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
22 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
23 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

24 **Persons with disabilities may request reasonable accommodations such as interpreters,**
25 **alternative format or assistance with physical accessibility.** Requests for accommodations must
26 be made as early as possible to allow time to arrange the accommodations. If accommodations are

1 required, call the Office of Administrative Hearings at (602) 542-9826.

2 **COMPLAINT**

3 1. Respondent Oxford Collection Agency, Inc. ("Oxford") is a New York corporation
4 authorized to transact business in Arizona as a collection agency within the meaning of A.R.S. §§
5 32-1001, *et seq.* The nature of Oxford's business is that of soliciting claims for collection and
6 collection of claims owed, due or asserted to be owed or due within the meaning of A.R.S. § 32-
7 1001(2)(a).

8 2. Respondent Charles Harris ("Mr. Harris") is the Vice President and Active Manager
9 of Oxford. Mr. Harris is authorized to transact business in Arizona as a collection agency within the
10 meaning of A.R.S. §§ 32-1001, *et seq.*

11 3. Neither Oxford nor Mr. Harris are exempt from licensure as a collection agency
12 within the meaning of A.R.S. § 32-1004.

13 4. On June 4, 2007, the Department sent Oxford notice that an examination of Oxford
14 would commence at the Department on or about August 17, 2007. The notice requested certain
15 records and information be forwarded to the Department. Oxford did not respond to the request.

16 5. On November 2, 2007, the Department's examiner, Jack Watson ("Mr. Watson")
17 called Mr. Harris regarding the examination and faxed him the notice of examination and licensee
18 questionnaire.

19 6. Mr. Watson spoke with Mr. Harris and the examination was rescheduled for January
20 10, 2008. Again, Oxford failed to respond to the Department's request for information in order to
21 conduct the examination.

22 7. On January 29, 2008, Mr. Watson telephoned Mr. Harris regarding the examination
23 and the Department's requests for information that had been ignored by Oxford. Again, Mr. Watson
24 faxed the notice of examination and licensee questionnaire to Respondents.

25 8. Because of Mr. Harris' unresponsiveness, Mr. Watson placed a second call to Mr.
26 Harris on May 15, 2008 and re-faxed the notice of examination and licensee questionnaire to

1 Respondents. At that point, Mr. Harris indicated the examination documents would be received by
2 the Department by mid-August.

3 9. On September 8, 2008, Mr. Watson telephoned Mr. Harris and Randall Silver ("Mr.
4 Silver"), Chief Financial Officer and left messages for both. Mr. Watson again faxed the notice of
5 examination and licensee questionnaire to Respondents.

6 10. On September 11, 2008, Mr. Silver telephoned Mr. Watson and asked him to again
7 re-fax the documents that previously had been sent to Respondents five (5) times.

8 11. On February 3, 2009, the Department issued and served upon Respondents an Order
9 to Cease and Desist; Notice of Opportunity for Hearing; Consent to Entry of Order ("Cease and
10 Desist Order"). The return receipt (green card) indicating delivery of the Cease and Desist order was
11 signed by Respondents on February 6, 2009. The Cease and Desist Order was also forwarded to
12 Respondents' statutory agent, who signed for receipt on February 4, 2009.

13 12. The Cease and Desist Order imposed upon Respondents a civil money penalty of five
14 thousand dollars (\$5,000.00).

15 13. The Cease and Desist Order provided Respondents an opportunity to appeal the Order
16 within thirty (30) days of service. Respondents did not file a request for hearing in order to appeal
17 the Cease and Desist Order, nor did they remit the civil money penalty to the Department or provide
18 to the Department the records and information requested.

19 14. Based upon Respondents' failure to act upon the Cease and Desist Order, the Cease
20 and Desist Order became a final Order on March 11, 2009.

21 15. On March 23, 2009, Robert D. Charlton, Assistant Superintendent at the Department,
22 sent Respondents a letter notifying them of the final Cease and Desist Order.

23 16. In late April of 2009, Respondents finally provided the records the Department had
24 been requesting since June 4, 2007.

25 17. On May 6, 2009, Mr. Watson received the licensee questionnaire from Respondents
26 via e-mail.

18. On May 18, 2009, at the end of the examination which commenced on May 15, 2009, Mr. Watson requested Respondents' current financial statement from Mr. Silver, who had forwarded the examination documents to the Department. Mr. Watson received the financial statement on May 28, 2009.

19. Respondents have failed to pay the \$5,000 civil money penalty in violation of the Superintendent's Final Order dated February 3, 2009.

20. Mr. Watson's examination, conducted May 15, 2009 through May 18, 2009, revealed the following violations:

- a. Respondents failed to timely make available to the Department all books and records for inspection and examination by the Superintendent or her examiners, by refusing to allow the Department to conduct an examination of Oxford pursuant to A.R.S. § 6-122(B)(3);
- b. Respondents failed to maintain all records required under A.A.C. R20-4-1504 and failed to timely make them available for examination, investigation or audit in Arizona within three (3) working days after the Superintendent demanded the records; and
- c. Respondents used a name other than the name under which they are licensed, specifically:
 - i. Respondents' collection letters refer to the Company as "Oxford Management Services, Inc." rather than "Oxford Collection Agency, Inc., its licensed name; and
 - ii. Respondents failed to correct this violation from their previous examination.

LAW

1. Pursuant to Title 32, Chapter 9 of the Arizona Revised Statutes, the Superintendent is charged with the duty to regulate all persons engaged in the collection agency business and with the

1 enforcement of statutes, rules and regulations relating to collection agencies.

2 2. By the conduct set forth in the Complaint, Respondents have violated statutes and
3 rules governing collection agents as follows:

4 a. A.R.S. § 6-124(C), by refusing to allow the Department to conduct an
5 examination of Oxford pursuant to A.R.S. § 6-122(B)(3);

6 b. A.A.C. R20-4-1504(D), by failing to maintain all records required under
7 A.A.C. R20-4-1504 and failing to timely make them available for
8 examination, investigation or audit in Arizona within three (3) working days
9 after the Superintendent demands the records; and

10 c. A.A.C. R20-4-1519(C), by conducting business under more than one name
11 under the same license.

12 3. Respondents violated the February 3, 2009 Superintendent's Final Order by failing to
13 produce the records in a timely manner and by failing to pay the \$5,000 Civil Money Penalty.

14 4. Respondents' violation of the February 3, 2009 Superintendent's Final Order
15 constitutes grounds to suspend or revoke Respondents' collection agency license pursuant to A.R.S.
16 § 32-1053(A)(3).

17 5. Respondents' failure to timely respond to the Superintendent's request for
18 information constitutes a violation of A.R.S. § 6-123(3) and 6-124(C), which constitutes grounds to
19 suspend or revoke Respondents' collection agency license pursuant to A.R.S. § 32-1053(A)(3).

20 6. Respondents failure to conduct their collection agency business in accordance with
21 the law, constitutes grounds to suspend or revoke Respondents' collection agency license pursuant to
22 A.R.S. § 32-1053(A)(3).

23 7. Respondents' conduct has shown that they are not persons of honesty, truthfulness or
24 good character, which constitutes grounds to suspend or revoke Respondents' collection agency
25 license pursuant to A.R.S. § 32-1053(A)(2).

26 8. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes

1 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation
2 for each day.

3 9. Pursuant to A.R.S. § 6-132, Oxford and Mr. Harris shall be assessed a civil money
4 penalty in the amount of ten thousand dollars (\$10,000.00). Oxford and Mr. Harris shall be jointly
5 and severally liable for payment of the civil money penalty.

6 10. Pursuant to A.R.S. § 6-125(B)(4), Oxford and Mr. Harris shall be assessed an
7 examination fee in the amount of one thousand, one hundred five dollars (\$1,105.00), pursuant to
8 A.R.S. § 6-122(B)(3), plus any applicable late fees pursuant to A.R.S. § 6-125(D).

9 11. The violations set forth above constitute grounds for: (1) the issuance of an order
10 pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and
11 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the
12 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
13 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
14 suspension or revocation of Respondents' license pursuant to A.R.S. § 32-1053; (4) an order to pay
15 restitution of any fees earned in violation of A.R.S. §§ 32-1001, *et seq.*, pursuant to A.R.S. §§ 6-
16 131(A)(3) and 6-137; and (5) an order or any other remedy necessary or proper for the enforcement
17 of statutes and rules regulating collection agents pursuant to A.R.S. §§ 6-123 and 6-131.

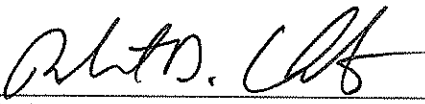
18 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
19 above-described violations, the Superintendent may impose a civil money penalty pursuant to A.R.S.
20 § 6-132; suspend or revoke Oxford Collection Agency, Inc.'s collection agency license pursuant to
21 A.R.S. § 32-1053; order payment of restitution of any fees earned in violation of A.R.S. §§ 32-1001,
22 *et seq.*, pursuant to A.R.S. §§ 6-131(A)(3) and 6-137; and order any other remedy necessary or
23 proper for the enforcement of statutes and rules regulating collection agencies pursuant to A.R.S. §§
24 6-123 and 6-131.

25 ...

26 ...

1 DATED this 19 day of June, 2009.

2 Felecia A. Rotellini
3 Superintendent of Financial Institutions

4 By 
5 Robert D. Charlton
6 Assistant Superintendent of Financial Institutions

7 ORIGINAL of the foregoing filed this 19
8 day of June, 2009, in the office of:

9 Felecia A. Rotellini
10 Superintendent of Financial Institutions
11 Arizona Department of Financial Institutions
12 ATTN: Susan Ross
13 2910 N. 44th Street, Suite 310
14 Phoenix, AZ 85018

12 COPY mailed same date to:

13 Thomas Shedden, Administrative Law Judge
14 Office of the Administrative Hearings
15 1400 West Washington, Suite 101
16 Phoenix, AZ 85007

16 Craig A. Raby, Assistant Attorney General
17 Office of the Attorney General
18 1275 West Washington
19 Phoenix, AZ 85007

19 Robert D. Charlton, Assistant Superintendent
20 Jack E. Watson, Senior Examiner
21 Arizona Department of Financial Institutions
22 2910 N. 44th Street, Suite 310
23 Phoenix, AZ 85018

22 AND COPY MAILED SAME DATE by
23 Certified Mail, Return Receipt Requested,
and by Overnight Mail, to:


24 Charles Harris, Vice President & Active Manager
25 Oxford Collection Agency, Inc.
26 135 Maxess Road
Melville, NY 11747
Respondents

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Corporation Service Company, Statutory Agent for:
4 Oxford Collection Agency, Inc.
2338 W. Royal Palm Rd., Ste. J
Phoenix, AZ 85021

5 AND COPY DELIVERED SAME DATE by
6 Personal Service, to:

7 Corporation Service Company, Statutory Agent for:
8 Oxford Collection Agency, Inc.
2338 W. Royal Palm Rd., Ste. J
Phoenix, AZ 85021

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10 479309; PHX-AGN-2009-0439

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